

UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

IN RE:	§	CASE NO. 15-10109-HCM
	§	
COINTERRA, INC.	§	CHAPTER 7
	§	
DEBTOR.	§	

**C7 DATA CENTERS, INC.'S RESPONSE TO FORTIS ADVISORS LLC'S
MOTION FOR RELIEF FROM THE AUTOMATIC STAY**

COMES NOW, C7 Data Centers, Inc. ("C7") and hereby files its Response to the Motion for Relief from the Automatic Stay [Docket No. 28] ("Motion for Stay Relief") of Fortis Advisors LLC ("Fortis").

BACKGROUND

I. Cointerra's Security Interest in Customer Equipment

1. On or about April 9, 2014, C7 and Cointerra, Inc. (the "Debtor" or "Cointerra") entered into a Master Services Agreement—No. CT00040214 (the "Agreement") and the accompanying Statement of Work—No. CT00040114-01 (the "SOW," and collectively with the Agreement, the "Contract").¹

2. The term of the Contract was 18 months beginning on or about April 9, 2014 and continuing until about October 9, 2015.² Under the Contract, C7 provided Colocation and Hosting Services as well as Monitoring and Management Services.³ More particularly, C7 provided Cointerra cabinet space inside of three separate data centers in Utah along with the necessary support of the infrastructure installed therein, including, but not limited to, electricity.

¹ The Agreement and SOW are attached as Exhibits 1 and 2 respectively to the Declaration of Weston Swenson, which is attached hereto as Exhibit A.

² Agreement at ¶ 7.1.

³ Agreement at ¶ 1.1.

3. As acknowledged by the Debtor, Cointerra provided Bitcoin mining solutions for individuals wishing to mine Bitcoin.

4. Cointerra's Bitcoin mining operations required large amounts of power and thus Cointerra required massive amounts of electricity to be provided by C7. In fact, Cointerra was using electricity obtained by C7 at costs exceeding \$12,000 per day.

5. The Contract required Cointerra to pay C7 a monthly administration plus any additional expenses, taxes, support, and services charges, and/or late fees.⁴ But almost immediately after entering into the Contract, Cointerra fell delinquent, often paying less than the amount required to bring it current.

6. The Agreement provided C7 a valid and perfected security interest on all "Customer Equipment and Customer's stored data" to secure "payment of all monthly Service Fees and other amounts due and payable to C7."⁵ Cointerra's "Customer Equipment" consists mainly of machines located at C7's data centers. These machines are listed in the Debtor's Schedule B. Since the Contract's execution, C7 has maintained possession and control of the "Customer Equipment and Customer's stored data." Cointerra also holds a security interest in the Customer Equipment and stored data under various provisions of Utah Code.

7. The damages suffered by C7 as a consequence of Cointerra's breaches and failure to pay amounts owed under the Contract total over \$5 million.

II. Fortis's Motion for Stay Relief

8. After the Debtor filed its bankruptcy petition, Fortis filed the Motion for Stay Relief, which makes several factual allegations, including, but not limited to: (i) Fortis, as collateral agent for various noteholders, holds a valid, perfected security interest in "virtually every

⁴ Agreement at ¶¶ 4.0, 4.1; Exhibit A-2. at ¶ 3.0, Appendix A.

⁵ Agreement at ¶ 7.4.

asset of the Debtor,” including the machines located at C7’s facilities; and (ii) “the Estate retains no equity interest in any of the collateral” subject to Fortis’s liens.⁶ Fortis’s goal with the Motion for Stay Relief is to allow Fortis to “foreclose its perfected security interest.”⁷

III. **Open-Silicon, Inc.’s Objection**

9. On April 2, 2015, Open-Silicon, Inc. (“Open-Silicon”) filed an objection to the Motion for Stay Relief, alleging that Fortis does not hold a secured claim since the noteholders for whom Fortis acts as collateral agent converted to common equity by virtue of the bankruptcy filing and the language of the noteholders’ Secured Convertible Note.

RESPONSE

10. By this Response, C7 does not take a position on the validity of Fortis’s security interest.

11. But C7 does assert a valid perfected security interest in the Debtor’s property located in C7’s data centers. C7 also asserts that its security interest has a higher priority than Fortis’s security interest (to the extent Fortis holds a valid security interest).

12. C7 requests that any order from this Court granting the Motion for Stay Relief make clear that: (i) C7 maintains its rights under applicable law; and (ii) no determination as to the validity and priority of any party’s security interest has been made.

⁶ Motion for Stay Relief at ¶¶ 5, 9-10.

⁷ *Id.* at ¶ 9.

Dated: Austin, Texas
April 3, 2015

Respectfully submitted,

/s/ R. Adam Swick

R. Adam Swick

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CERTIFICATE OF SERVICE

By my signature below, I hereby certify that a copy of the foregoing *C7 Data Center, Inc.'s Response to Fortis Advisors LLC's Motion for Relief from the Automatic Stay* has been served on April 3, 2015, by the Court's ECF Noticing System to ECF participants or by first class mail, postage prepaid, to the following:

Debtor:	Cointerra, Inc., 11130 Jollyville Rd., Suite 303, Austin, TX 78759
Debtor's Attorneys:	Timothy A. Davidson, II and Joseph P. Rovira, ANDREWS & KURTH LLP, 600 Travis, Suite 4200, Houston, TX 77002
Chapter 7 Trustee:	Randy N. Osherow, 342 W. Woodlawn, Suite 100, San Antonio, TX 78212
Trustee's Attorneys:	Steve Turner, BARRETT DAFFIN FRAPPIER TURNER & ENGEL, 610 West 5th Street, Suite 602, Austin, Texas 78701
U.S. Trustee:	Office of U.S. Trustee, 903 San Jacinto Blvd., Room 230, Austin, TX 78701
Texas Comptroller:	Kimberly A. Walsh, ATTORNEY'S GENERAL OFFICE, Bankruptcy & Collections Division, P.O. Box 12548, Austin, TX 78711-2548
Future Electronics Corp:	Lynn Saarinen, BARRON & NEWBURGER, P.C., 1212 Guadalupe, Suite 104, Austin, TX 78701
Automated Circuit Design:	1250 American Pkwy., Richardson, TX 75081
Fortis Advisors, LLC:	Edwin P. Keiffer, WRIGHT GINSBERG BRUSLOW P.C., 325 North St. Paul Street, Suite 4150, Dallas, TX 75201
Open-Silicon, Inc.:	Timothy R. Casey, DRINKER BIDDLE & REATH LLP, 191 N. Wacker Drive, Suite 3700, Chicago, IL 60606-1698

/s/ R. Adam Swick

R. Adam Swick